

KATHERINE J. FLOREY

UC DAVIS SCHOOL OF LAW
400 MRAC HALL DRIVE, DAVIS, CA 95616
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EMPLOYMENT

UNIVERSITY OF CALIFORNIA AT DAVIS. 2007-present
Martin Luther King, Jr. Professor of Law 2019-present
Professor of Law (with tenure) 2011-2019
Acting Professor of Law 2007-2011

Courses taught: Civil Procedure, Comparative Law, Complex Litigation, Conflict of Laws/Private International Law, Federal Indian Law (at UC Davis and UC Berkeley), Federal Jurisdiction, Introduction to Anglo-American Law (at the Freie Universität, Berlin, Germany), Public Health Law

KEKER & VAN NEST LLP, San Francisco, CA. 2005-2007
Associate

JUDGE WILLIAM A. FLETCHER, U.S. Court of Appeals for the Ninth Circuit, San Francisco, CA, 2004-05
Law clerk

PUBLICATIONS

Law Review Articles

Toward Tribal Regulatory Sovereignty in the Wake of the Covid-19 Pandemic, 63 ARIZ. L. REV. __ (forthcoming 2021)

Covid-19 and Domestic Travel Restrictions, 96 NOTRE DAME L. REV. REFLECTION 1 (2020)

Substance-Targeted Choice-of-Law Clauses, 106 VA. L. REV. 1107 (2020)

Resituating Territoriality, 27 GEO. MASON L. REV. 141 (2019)

Rights, Immunities, and Sovereigns, 88 FORDHAM L. REV. ONLINE 74 (2019) (invited response piece)

A Successful Experiment: California's Local Laboratories of Regulatory Innovation, 66 UCLA L. REV. DISC. 80 (2018) (co-authored with Andrew Doan)

Losing Bargain: Why Winner-Take-All Vote Assignment is the Electoral College's Least Defensible Feature, 68 CASE W. RES. LAW REV. 317 (2017)

Budding Conflicts: Marijuana's Impact on Unsettled Questions of Tribal-State Relations (invited symposium contribution), 57 B.C. L. REV. 991 (2017)

Making It Work: Tribal Innovation, State Reaction, and the Future of Tribes as Regulatory Laboratories, 92 WASH. L. REV. 713 (2017)

What Personal Jurisdiction Doctrine Does – And What It Should Do, 43 FLOR. ST. U. L. REV. 1201 (2016)

Big Conflicts, Little Conflicts, 47 ARIZ. ST. L.J. 683 (2015)

Bridging the Divide: The Case for Harmonizing State and Federal Extraterritoriality Principles After Morrison and Kiobel (invited symposium contribution), 27 PAC. MCGEORGE GLOBAL BUS. & DEV. L.J. 197 (2014)

Beyond Uniqueness: Reimagining Tribal Courts' Jurisdiction, 101 CALIF. L. REV. 1499 (2013)

State Law, U.S. Power, Foreign Disputes: Understanding the Extraterritorial Effects of State Law in the Wake of Morrison v. National Australia Bank, 92 B.U. L. REV. 535 (2012)

Cited in:

- Levy v. Adidas AG, No. CV 18-6542 PSG, 2018 WL 5942000 (C.D. Cal. Nov. 13, 2018)

Making Sovereigns Indispensable: Pimentel and the Evolution of Rule 19, 58 UCLA L. REV. 667 (2011)

Cited in:

- Bell v. City of Lacey, O. 3:18-cv-05918-RBL, 2019 WL 4318615 (W.D. Wash. Sept. 12, 2019)
- Pennsylvania v. Think Finance, Inc., No.14-cv-7139, 2016 WL 183289 (E.D. Pa. Jan. 14, 2016)
- Ali v. Carnegie Inst. of Wash., 306 F.R.D. 20 (D.D.C. 2014)
- Klamath Tribal Claims Committee v. United States, 106 Fed. Cl. 87 (2012)

Indian Country's Borders: Territoriality, Immunity, and the Construction of Tribal Sovereignty, 51 B.C. L. REV. 595 (2010)

Cited in:

- People v. Miami Nation Enterprises, 2 Cal. 5th 222 (2016)
- Michigan v. Bay Mills Indian Community, 134 S.Ct. 202 (2014) (Thomas, J., dissenting)
- F.T.C. v. Payday Financial, 935 F.Supp.2d 926 (D.S.D. 2013)

Named as one of the top Indian law articles of the past 30 years in a study based on citation count

- See Grant Christensen and Melissa L. Tatum, *Reading Indian Law: Evaluating Thirty Years of Indian Law Scholarship*, 54 *Tulsa L. Rev.* 81 (2018))

State Extraterritorial Powers Reconsidered: A Reply, 85 *NOTRE DAME L. REV.* 1157 (2010)

State Courts, State Territory, State Power: Reflections on the Extraterritoriality Principle in Choice of Law and Legislation, 84 *NOTRE DAME L. REV.* 1057 (2009)

Cited in:

- *Berman v. City of New York*, No. 09–CV–3017, 2012 WL 13041996 (E.D.N.Y. October 3, 2012)
- *Berman v. City of New York*, 895 F.Supp.2d 453 (E.D.N.Y. 2012)
- *Malavé–Torres v. Cusido*, 839 F. Supp. 2d 501 (D. Puerto Rico 2012)
- *IMS Health, Inc. v. Mills*, 616 F.3d 7 (1st Cir. 2010) (vacated on different grounds by *IMS Health, Inc. v. Schneider*, 564 U.S. 1051 (2011))

Sovereign Immunity’s Penumbra: Common Law, “Accident,” and Policy in the Development of Sovereign Immunity Doctrine, 43 *WAKE FOREST L. REV.* 765 (2008)

Cited in:

- *Nettles v. Gtech Corp.*, No. 17-1010, 2020 WL 3110672 (Tex. Sup. Ct. June 10, 2020) (Boyd, J., concurring in part and dissenting in part)

Recent Developments in Criminal Enforcement of Securities Laws, Practicing Law Institute (September 2006) (with Jan Little)

Choosing Tribal Law: Why State Choice-of-Law Principles Should Apply to Disputes With Tribal Contacts, 55 *AMER. U.L. REV.* 1627 (2006)

Cited in:

- *Cooper v. Las Vegas Metro Police Dep’t*, No. 2:19-cv-02231-KJD-VCF, 2020 WL 569348 (D. Nev. Feb. 4, 2020)

Insufficiently Jurisdictional: The Case Against Viewing State Sovereign Immunity as an Article III Doctrine, 92 *CALIF. L. REV.* 1375 (2004)

Cited in:

- *Rusk State Hosp. v. Black*, 55 *Tex. Sup. Ct. J.* 1320 (2012) (Lehrmann, J., concurring and dissenting)

Op-Eds and Blog Posts

How To Control the Spread of Coronavirus over State and County Lines, CAL MATTERS, July 29, 2020

Guest column on *Dollar General v. Mississippi Band of Choctaw Indians*, SAN FRANCISCO DAILY JOURNAL, November 24, 2015

Who Is an "Indian Child"? SAN FRANCISCO DAILY JOURNAL, October 6, 2015

Opinio Juris, *Kiobel Insta-Symposium: Deepening the Divide*, April 12, 2013

Authored/Co-Authored Amici Briefs

Brief of Civil Procedure and Tort Law Professors as Amici Curiae in Support of Petition for a Writ of Certiorari, *Two Shields v. Wilkinson* (U.S. Supreme Court) (2015)

Brief Amicus Curiae of the American Civil Liberties Union and the ACLU of Mississippi in Support of Respondents, *Dollar General Corporation v. Mississippi Band of Choctaw Indians* (U.S. Supreme Court) (2015)

EDUCATION

BLOOMBERG SCHOOL OF PUBLIC HEALTH, JOHNS HOPKINS UNIVERSITY
Training Certificate in Public Health, 2017

- Certificate awarded for completing six core courses in Master of Public Health program; received highest possible grade in each course

SCHOOL OF LAW, UNIVERSITY OF CALIFORNIA AT BERKELEY
J.D. May 2004

- Thelen Marrin Award for Academic Excellence (ranked 1st in graduating class of 332)
- Boalt Hall Fellowship (three-year, full-tuition merit scholarship based on incoming LSAT/GPA)
- Eight Jurisprudence Awards (highest grade in class), two Prosser Prizes (second-highest grade in class)
- Order of the Coif
- Articles editor, *California Law Review*

WARREN WILSON COLLEGE, Asheville, NC
M.F.A. in creative writing, January 1998

HARVARD COLLEGE, Cambridge, MA
A.B. *summa cum laude* in English and American Literature, June 1993

- Phi Beta Kappa

- Fiction editor, *Harvard Advocate*
- National Merit Scholar

PRESENTATIONS “Mill, Harm, and Health” (invited lecture), Structured Liberal Education program, Stanford University, March 10, 2020

“Uniqueness and Beyond: The Contradictions of Tribal Status in the United States” (lecture), Aoki Center, UC Davis School of Law, February 11, 2020

Panelist, “Tribal Courts and Restorative Justice,” Sovereign to Sovereign Conference, Attorneys General Alliance, Lincoln, CA, February 10, 2020

Panelist, Discussion of Ninth Circuit Oral Argument in *State of Washington v. Trump*, UC Davis School of Law, February 7, 2017

“Making It Work,” UC Davis School of Law, October 18, 2016

“The Foundations of Tribal Law,” Understanding Tribal-County Relationships Workshop, CSAC Institute for Excellence in Country Government, Sacramento, CA, July 7, 2016

“Indian Case Law Update, 2014-2015,” California Indian Law Association Conference, held at Jackson Rancheria Casino Resort, Jackson, CA, October 16, 2015.

Daimler v. Bauman and *Walden v. Fiore*, Supreme Court Case Series, UC Davis School of Law, August 6, 2014

“Beyond Uniqueness: Toward a Broader View of Tribal Courts’ Jurisdiction” (workshop), Berkeley Law, July 16, 2013

Respondent, Indigenous Peoples and the Doctrine of Discovery (forum), UC Davis, May 2, 2013

Panelist, “Transnational Securities Enforcement After *Morrison*,” Transnational Securities and Regulatory Litigation in the Aftermath of *Morrison v. National Australia Bank* (symposium), University of the Pacific McGeorge School of Law, March 1, 2013

Panelist, “Berkeley Law’s Responsibility for Heeding Frickey’s Call,” Heeding Frickey’s Call: Doing Justice in Indian Country (symposium), Berkeley Law, September 28, 2012

“10 (or 11) Things You Should Know About Federal Indian Law” (presentation as part of Native American Culture Week), UC Davis School of Law, September 4, 2012

Participant, Faculty Roundtable, *Uneasy Remains* Film Project (documentary about the Native American Graves Protection and Repatriation Act), March 9, 2012

Panelist, “The American Southwest: Access to Justice in a Land of Reservations and Rural Places,” UC Davis School of Law, January 12, 2012

“The 2011 Personal Jurisdiction Cases,” Supreme Court Case Series, UC Davis School of Law, August 10, 2011 (with Rex Perschbacher)

“*Wal-Mart Stores Inc. v. Dukes*,” Supreme Court Case Series, UC Davis School of Law, August 4, 2011 (with Courtney Joslin)

Brown Bag Lunch, “2010 Amendments to the Federal Rules of Civil Procedure,” U.S. Attorney’s Office for the Eastern District of California, Civil Division, March 3, 2011

“*Pimentel* and the Uses of Rule 19,” Bay Area Civil Procedure Forum, Hastings College of the Law, November 16, 2009

“Indian Country’s Borders,” Junior Faculty Federal Courts Workshop, Michigan State University College of Law, October 23, 2009

“*Pimentel* and the Uses of Rule 19,” UC Davis-McGeorge Junior Faculty Workshop, October 8, 2009

“State Courts, State Territory, State Power,” UC Davis School of Law, September 23, 2008

**LAW SCHOOL
SERVICE**

Educational Policy Committee, 2008-09, 2015-16, 2020-21 (chair)
Covid-19 Instructional Planning Committee, Summer 2020
Appointments Committee, 2010-11, 2013-14 (chair), 2014-15, 2019-20
Clerkship Committee, 2007-2012, 2014-18, 2019-21
L.L.M. Advisory and Admissions Committee, 2019-20
Lawyering Skills Committee (chair), 2017-18
Tenure Committee for Professor Brian Soucek, 2013-18
Barrett Chair Advisory Committee, 2015-16
Legal Research and Writing Program Committee, 2016-17 (chair)
Admissions Committee, 2009-10, 2012-13, 2016-17
Intellectual Enrichment Committee, 2015-16
Law Teaching Committee, 2012-13

**UNIVERSITY
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Cannabis and Hemp Research Center Steering Committee, 2019-present
Native American Graves Protection and Repatriation Act (NAGPRA) Committee, 2011-2020
Privilege and Tenure Committee, 2011-16
Admissions and Enrollment Committee, 2009-10, 2016-18

OTHER

Nominee, Distinguished Teaching Award, 2009-10, 2011-12, 2013-14, 2016-17

Summer Research Grant, 2007-2017

U.C. Davis Small Grant in Aid of Research, 2008

Peer Reviewer, Routledge and Aspen Publishers, *California Law Review*, *University of Chicago Law Review*, *Northwestern Law Review* (peer review board member), *Stanford Law Review*, *Yale Law Journal*

Visiting Professor, Berkeley Law, Fall 2013

Visiting Scholar, Freie Universität, Berlin, Germany, 2018-19 (while on sabbatical leave)

BAR ADMISSIONS California, Supreme Court of the United States